

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

NICOLETTE HANCOX,)	
Plaintiff,)	
)	
v.)	No. 2:21-cv-02571-SHL-tmp
)	
E. W. ATKINSON, JR.,)	
Defendant.)	
)	

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is Chief Magistrate Judge Tu Pham’s Report and Recommendation (“Report”), recommending the grant of Defendant E. W. Atkinson, Jr.’s Motion to Vacate or Set Aside Entry of Default. (ECF No. 28.)

A magistrate judge may submit to a judge of the court proposed findings of fact and recommendations to set aside an entry of default. 28 U.S.C. § 636(b)(1)(B). “Within 14 days after being served with a copy of the recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b)(2); see also 28 U.S.C. § 636(b)(1) (2017). A district court reviews de novo only those proposed findings of fact or conclusions of law to which a party specifically objects. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Here, the Report identifies three factors courts consider when determining whether to set aside an entry of default for good cause shown: 1) whether the plaintiff will be prejudiced, 2) whether the defendant has a meritorious defense and 3) whether the defendant’s culpable conduct led to the default. See United States v. Goist, 378 F. Appx. 517, 519 (6th Cir. 2010). Although the Magistrate Judge found that the last factor weighs against setting aside entry of default, he ultimately determined that the weight of the first two factors coupled with the Sixth

Circuit's preference for resolving cases on the merits warrant a grant of Defendant's Motion. (ECF No. 28 at PageID 102.) In addition, the Magistrate Judge denied Plaintiff's request for the costs incurred in obtaining an entry of default because pro se litigants are not entitled to attorney's fees. Finally, he recommends that Plaintiff be permitted to amend her complaint to add her former employer as a co-defendant.

Plaintiff has filed no objections to the Magistrate Judge's proposed findings and legal conclusions; indeed, she seems to concede to his points because she has anticipatorily filed an amended complaint on the docket in line with his recommendations. (See ECF No. 29.) Accordingly, the Court reviews the Report for clear error and finds none. Thus, the Court **ADOPTS** the Report and **SETS ASIDE** the Clerk's entry of default.

IT IS SO ORDERED, this 19th day of July, 2022.

s/ Sheryl H. Lipman
SHERYL H. LIPMAN
UNITED STATES DISTRICT JUDGE